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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,444	01/23/2001	Hans-Ueli Roeck	33270	2422
116	7590	09/07/2004		EXAMINER
PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			BARNIE, REXFORD N	
			ART UNIT	PAPER NUMBER
			2643	

DATE MAILED: 09/07/2004

26

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/767,444	ROECK, HANS-UEL	
	Examiner	Art Unit	
	REXFORD N BARNIE	2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 June 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 14,16,20-27 and 32-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 14,16,20-27 and 32-59 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


REXFORD BARNIE
PRIMARY EXAMINER

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 14, 26, 27, 36 and 50 are rejected under 35 U.S.C. 102(a) as being anticipated by Bisgaard (WO 00/41440, hereafter referred to WO '440).

Regarding claim 14, Bisgaard teaches a time controlled hearing aid wherein a user can be notified of a status of a hearing aid via an audio signal wherein the content of the audio signal is selected or programmed by the user via DTMF signal based on entered parameters (data/coded audio signals) (see page 5 line 26-page 6 line 7, page 12 lines 25-28) which include expiration data. Furthermore, the service or expiration time would be part selected by the user according to a subscription agreement.

Regarding claims 26 and 27, Bisgaard teaches a time controlled hearing aid wherein a user can be notified of a status of a hearing aid via an audio signal wherein the content of the audio signal is selected or programmed by the user via DTMF signal based on entered parameters (see page 5 line 26-page 6 line 7, page 12 lines 25-28) which include expiration data. Furthermore, the service or expiration time would be part selected by the user according to a subscription agreement. Bisgaard teaches the claimed elements in (see figs.).

Regarding claim 36, Bisgaard teaches a time controlled hearing aid wherein a user can be notified of a status of a hearing aid via an audio signal wherein the content of the audio signal is selected or programmed by the user via DTMF signal based on entered parameters (data/coded audio signals) (see page 5 line 26-page 6 line 7, page 12 lines 25-28) which include expiration data. Furthermore, the service or expiration time would be part selected by the user according to a subscription agreement.

Regarding claim 50, Bisgaard teaches a time controlled hearing aid wherein a user can be notified of a status of a hearing aid via an audio signal wherein the content of the audio signal is selected or programmed by the user via DTMF signal based on entered parameters (see page 5 line 26-page 6 line 7, page 12 lines 25-28) which include expiration data. Furthermore, the service or expiration time would be part selected by the user according to a subscription agreement. Bisgaard teaches the claimed elements in (see figs.).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO '440.

Regarding claims 16 and 20-21, WO '440 teaches remote activate of a hearing aid parameters which include contents for activating an audio signal when necessary.

Art Unit: 2643

WO '440 teaches the possibility of being able to program content of the hearing aid either by a user or an audiologist. WO '440 fails to teach wireless programming by a user but the examiner takes official notice that it's well known to program hearing devices either locally or remotely either by a wireless link.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to be able to program a hearing aid device remotely without going to an on-site location to have one's hearing aid programmed.

Claims 22-25, 32-35, 37-49, and 51-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO '440 in view of Single (WO 97/01314).

Regarding claims 22-25, WO fails to teach the claimed subject matter but Single teaches a hearing aid device wherein a user can request a message, which is associated with the status of the hearing aid in (see col. 15 line 25-col. 16 line 10). Furthermore, Single teaches a system wherein a user is capable of storing desired messages in a message source (see 330 A of fig. 7, col. 12 lines 23-col. 13). Single teaches an interactive hearing aid means in (see col. 16 of Single) wherein activation of sounds can be done via remote device and by voice recognition or voice commands.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Single into that of Bisgaard thus making it possible to activate a hearing aid based on stored parameters efficiently in part based on user's interaction.

Regarding claims 32-35, The combination including Bisgaard teaches being able to program a hearing aid device over the internet. Furthermore, see the explanation above.

Regarding claims 37-49, see the explanation as set forth above

Regarding claims 51-59, the combination teaches the claimed subject matter including a switching member in (see Single). Acknowledgement parameters can be stored for future activation according to the combination. Also, see the explanation as set forth above

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **REXFORD N BARNIE** whose telephone number is (703)306-2744. The examiner can normally be reached on M-F 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CURTIS KUNTZ can be reached on (703) 305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2643

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PRIMARY EXAMINER
REXFORD BARNIE
08/31/04


REXFORD BARNIE
PRIMARY EXAMINER